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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,006	03/28/2002	Alexander Pilger	1454.1124	7148

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,006

Applicant(s)

PILGER ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 7-15 are presented for examination; claim 7 independent.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 9, 2005 has been entered.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellington, Jr. et al. (USPN 6,175,569) (hereinafter Ellington).

4. Referring to claim 7, Ellington discloses a communication system utilizing a network (Figure 1), comprising:

a first computer (i.e. originating LAN station) connected (the Office takes the term "connected" to mean logically connected, such as a computer behind a firewall in a

LAN, since it is still able to connect to other computers on the ATM network, it is considered connected to the network) to the network 10 (Figure 1) including an access unit (i.e. LAN/ATM Interface Device 12, 14) used to determine predetermined QoS features for interaction with the network (i.e. based on the priority subfield used, mapping the priority value to a traffic class) (e.g. abstract; col. 5, lines 57-60); and

a second computer (i.e. devices in the ATM network inherently connecting the interface devices 12, 14, together) connected to the network 10 (Figure 1), to administer to the QoS features of the access unit (col. 6, line 66 to col. 7, line 12).

5. Referring to claim 8, Ellington discloses the network is the Internet (the Internet is a connection of interconnected networks able to allow various LAN's to communicate with one another, such functionality is found in the ATM network 10 since it connects the different LAN networks 18,24 (Figure 1) together (Figure 1, ref. 10).

6. Referring to claim 9, Ellington discloses the access unit is an autonomous device (i.e. the access interface is a device which can operate without the need of any client) (col. 5, lines 57-60; Figure 1, col. 4, lines 45-62).

7. Referring to claim 10, Ellington discloses the access unit is a plug-in device for the first computer (the Office takes the term "plug-in device" to be broadly construed as "a device which can be physically or logically connected to a computer" such as the

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LAN interface device can be connected to the first computer via the LAN 18 (col. 5, lines 57-60; Figure 1, col. 4, lines 45-62).

8. Referring to claim 11, Ellington discloses the access unit is a processor of the first computer programmed to determine predetermined QoS features for interaction with the network (i.e. since the interface device acts on behalf of the first computer, it can be considered that the interface access device processor is a processor of the first computer since without the interface, the first computer would be unable to access the ATM network (col. 5, lines 57-60).

9. Referring to claim 12 and 13, it is inherent that the second computer of Ellington (i.e. LAN/ATM Interface Device 12, Figure 1) is assigned to an Internet service provider since it provides service to the LAN 18 since without being assigned as a service provider, the device 12 would not be able to provide service to the LAN.

10. Referring to claim 14, Ellington discloses the QoS features are called up dynamically in the access unit (the Office takes the term "called up" as created) (col. 5, lines 56-67).

11. Referring to claim 15, Ellington discloses that the LAN/ATM interface device converts from a first protocol (i.e. token ring) to a second protocol (i.e. ATM) (e.g. abstract).

Response to Arguments

12. Applicant's arguments have been fully considered but are not persuasive.

13. In light of the Applicant's amendments, as well as a careful rereading of the Ellington reference. The Examiner has reformulated the Ellington reference, such that the interface device 12 can be considered a plug in device for the computer.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

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Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly, define the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA

September 19, 2005

